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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/412,087	10/04/1999	GARY L. BURGE	1355-171C	9198

8698 7590 02/09/2007
STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

EXAMINER

CHAMPAGNE, DONALD

ART UNIT	PAPER NUMBER
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3622

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/412,087

Applicant(s)

BURGE ET AL.

Examiner

Donald L. Champagne

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 6-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 November 2006 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1-5 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemon et al. (US pat. 4,674,041) in view of Herz et al. US005835087A.
4. Lemon et al. teaches (independent claims 1 and 16) a system for customizing displays and an electronic marketing system, the electronic marketing system comprising: a plurality of electronic user profiles (*customer credit account numbers and coupon transaction histories* stored in *memory 56*, col. 8 lines 32-37); a database (*memory 56*) for storing *coupons to be displayed* (col. 8 lines 32-36), the merchant-selected details of said *coupons* reading on merchant data for a plurality of merchants (col. 3 lines 36-38 and 61-62); variable display characteristics (*full screen advertisements* or a *page formatted menu of coupons*, col. 6 lines 62-67) for defining the layout of a computer display; a predictive model for selecting actual display characteristics consistent with said variable display characteristics (i.e., selecting the sequence and number of pages for display of coupons and ads, col. 5 lines 32-44), said actual display characteristics independent of said merchant data (i.e., independent of the details of the coupons offered by merchants to the customer user), and conforming to monitored user preferences (the *coupon transaction histories*) for presentation of merchant

data (the merchant-selected details of the coupons) on said computer display (col. 5 lines 8-11) in accordance with one of said electronic user profiles/*coupon transaction histories*; and a computer display comprising said actual display characteristics and said merchant data from said plurality of merchants, said computer display conforming to monitored user preferences/*coupon transaction histories* based on said actual display characteristics for presentation of said merchant data.

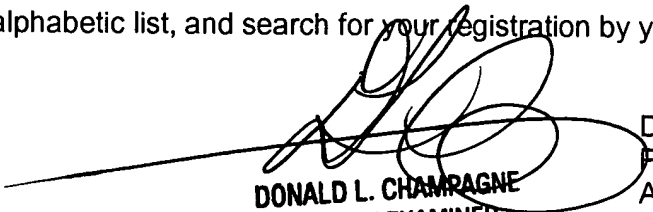
5. For claim 1, Lemon et al. also teaches a process at a host computer (*host computer H*) for selecting a plurality of actual display characteristics (col. 4 lines 35-40), and a "shopper's computer" (*terminal T with customer interface*, col. 4 lines 15-22 and Fig. 2; see para. 11 below). The customer/user purchases based on coupon chosen with the reference invention (col. 2 lines 8-12) reads on *on-line behavior data*.
6. Lemon et al. does not teach on-line purchasing, a computer located remotely from the point of sale and connected to a host computer via an on-line subscription service. Herz et al. teaches on-line purchasing (col. 70 lines 22-28), a computer (*personal computers T₁-T_n*) located remotely from the point of sale and connected to a host computer via an on-line subscription service (*America Online*, col. 28 lines 47-66). Because Herz et al. teaches how relevant information can be found on-line without requiring the user to expend an excessive amount of time and energy (col. 1 lines 46-62 and col. 4 lines 37-43), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the teachings of Herz et al. to those of Lemon et al.
7. Lemon et al. also teaches at the citations given above claims 2, 5 and 18. Claim 2 does not add a patentable, structural, limitation to claim 1. Even if it did, the plurality of *terminals T* (col. 4 lines 15-22) would read on "selected sites".
8. Lemon et al. does not teach (claims 3 and 17) that personal data includes age, sex and hobbies. Official notice is taken (MPEP § 2144.03) that it was common, at the time of the instant invention, to monitor these demographic parameters for marketing purposes. Lemon et al. also does not teach (claims 4, 19 and 20) that the coupons/display model parameters include colors. It was common, at the time of the instant invention, to produce colored coupons.
9. Official notice of these common knowledge or well known in the art statements was taken in the last Office action mailed on 6 February 2006 (para. 15 and 16). These statements are

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taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. (MPEP 2144.03.C.)

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 571-272-6717. The examiner can normally be reached from 9:30 AM to 8 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at donald.champagne@uspto.gov, and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 571-273-6717.
11. The examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for all *formal* fax communications is 571-273-8300.
12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
13. **ABANDONMENT** – If examiner cannot by telephone verify applicant's intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office's web site, www.uspto.gov. At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.


DONALD L. CHAMPAGNE
PRIMARY EXAMINER

Donald L. Champagne
Primary Examiner
Art Unit 3622

5 February 2007